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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11356 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy  
of the judgement? No

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

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SHANTABEN ISHWARBHAI PATEL & ORS

Versus

COLLECTOR

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Appearance:

Kum. V.P. Shah, Advocate, for the Petitioners

Shri M.R. Anand, Government Pleader (Senior  
Counsel), with Shri T.H. Sompura, Asst. Govt.  
Pleader, for the Respondent

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CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 11/04/96

ORAL JUDGEMENT

The petitioners have approached this Court by  
means of this petition under articles 226 and 227 of the  
Constitution of India for a writ of mandamus directing

the Collector of Vadodara (the respondent herein) to act according to law in view of the common decision of the Gujarat Revenue Tribunal at Ahmedabad (the Tribunal for convenience) rendered on 19th June 1992 in Revision Applications Nos. TEN.B.A. 614 of 1986 to 617 of 1986 and 557 of 1988 to 560 of 1988.

2. The facts giving rise to this petition move in a narrow compass. It appears that the petitioners applied for permission under sec. 43 of the Bombay Tenancy and Agricultural Lands Act, 1948 (the Tenancy Act for brief) with respect to certain parcels of land separately. It appears that such permission was initially not granted and the petitioners had to approach the tribunal with four revisional applications bearing Nos. TEN.B.A. 614 of 1986 to 617 of 1986. It appears that during the pendency of the aforesaid revisional applications before the tribunal, the respondent granted the necessary permission under sec. 43 of the Tenancy Act by his order passed on 3rd January 1987 fixing the premium at the rate of 70% of the market value of the lands in question. The petitioners found the premium amount to be exorbitant and they therefore paid the premium amount under protest and carried the matter in revision before the tribunal. Their revisional applications came to be registered as TEN.B.A. 557 of 1988 to 560 of 1988. All the aforesaid revisional applications of 1986 and 1988 were heard together and by the common decision rendered on 19th June 1992 in the aforesaid revisional applications, the tribunal accepted them and directed the Collector to decide the matter afresh regarding fixation of the premium on the basis of certain orders passed by the State Government as discussed in the decision. The respondent was also directed to refund the excess amount and to dispose of the matters within two months from the date of receipt of the said decision. A copy of the operative part of the aforesaid decision of the tribunal is at Annexure A to this petition. It appears that pursuant thereto on behalf of the petitioners an application was made on 3rd August 1992 to the respondent for deciding the matters in the light of the aforesaid decision of the tribunal. A copy of the aforesaid application of 3rd August 1992 is at Annexure B to this petition. Since no decision was taken by the respondent though more than a year therefrom lapsed, the petitioners have approached this Court by means of this petition under articles 226 and 227 of the Constitution of India for a writ of mandamus directing the respondent to act according to law in accordance with the aforesaid decision of the tribunal, a copy of the operative order of which is at Annexure A to this petition.

3. It cannot be gainsaid that the respondent is bound to carry out the direction contained in the decision of the tribunal. It is unfortunate that the respondent has kept quiet and sat tight over the aforesaid decision of the tribunal for no good reason. Learned Government Counsel Shri Anand for the respondent has stated that certain similar matters regarding fixation of the premium amount by these very petitioners were pending before this Court and the respondent therefore thought it fit to wait till those petitions were decided before taking up the matters for fixation of the premium amount pursuant to the aforesaid decision of the tribunal.

4. Even if the reason given by learned Government Counsel Shri Anand for the respondent is accepted, the proper course to have been adopted by the respondent was to approach the tribunal for its extension of the time-limit. Even otherwise, he could have moved this Court in the aforesaid petitions pointing out the direction given by the tribunal to him in its aforesaid decision. The respondent could not have issued a self-styled stay of the decision of the tribunal simply on the basis of pendency of certain petitions by the petitioners involving the very same point. Such Dala Tarwadi attitude on the part of the respondent cannot be countenanced.

5. It may be mentioned at this stage that the petitions instituted by the petitioners involving the same point bearing Special Civil Applications Nos. 113 and 114 of 1988 have been disposed of by this Court by its judgment rendered yesterday, that is, on 10th April 1996 and other two writ petitions bearing Special Civil Applications Nos. 114 and 115 of 1988 have been decided today by another judgment. Thereunder the respondent has been directed to fix the premium amount in the light of the Government Resolutions of 16th March 1982 as amended by the Government Resolution of 4th December 1986. It transpires from the material on record in this case that the tribunal has also given almost the same direction. In that view of the matter, there remains no hitch or hindrance in the way of the respondent in fixing the premium amount qua the lands in question pursuant to the aforesaid decision of the tribunal.

6. In the result, this petition is accepted. A writ of mandamus is ordered to be issued to the Collector of Vadodara (the respondent herein) directing him to decide the question of fixation of the premium amount qua the

lands in question pursuant to the decision of the tribunal, a copy of the order of which is at Annexure A to this petition as expeditiously as possible but in any case latest by 15th May 1996. If on fixation of the premium amount it is found that the petitioners have paid more amount, the respondent will cause the refund of the excess amount as expeditiously as possible but in any case within 15 days from such decision. Rule is accordingly made absolute with no order as to costs. Direct service is permitted.

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